

### **REMARKS/ARGUMENTS**

Claims 1-13 and 15-21 are pending in the application. Claims 14 and 22 are cancelled herein. Reconsideration and reexamination of the application are hereby respectfully requested.

#### **In the Specification:**

Paragraph 0036 (Applicant uses here the paragraph number from the published version of the subject application US 2004/0251041 = Para. 0024 of the originally filed specification) is amended to correct an editorial error.

#### **In the Claims:**

Claims 4-13 and 18-21 stand objected to under 37 C.F.R. 1.75(c) as being in improper multiple dependent form. All multiple dependency has been eliminated in the amended claims.

Claims 14-17 and 22 stand rejected under 35 U.S.C. 112, second paragraph, as indefinite. Claims 14 and 22 have been cancelled, as suggested by the Examiner. The Applicant believes that the amendments herein cure the other problems specifically noted by the Examiner as well as others noted by the undersigned. Regarding amended claim 15, by the presence of the limitation to a battery pack the claim defines the battery pack as part of the claimed invention.

Additionally, claim 13 is amended to read "rotary hammer" merely to avoid the "and/or" term of the original. Those of ordinary skill in the art will understand that rotary hammer tools encompass designs offering rotary and/or hammering modes of operation.

#### **Claim Rejections Under 35 U.S.C. 102:**

Claims 1-3 and 15-17 stand rejected under 35 USC 102(a) as anticipated by Bongers-Ambrosius '949 ("BA '949"). The Applicant respectfully traverses this rejection.

According to the Examiner, BA '949 discloses a "battery pack 19 releasably mounted on the accessory unit." Applicant respectfully submits that this description is contrary to the common understanding of the word "mounted." As reflected by the attached Webster OnLine definition, "mounted" conveys the sense of attached for support and/or for common movement. For example, one does not usually say that a floor lamp plugged into a nearby wall socket is "mounted to the wall", rather you might say "it is electrically connected to the wall." In contrast, a wall "mounted" lamp is understood to be physically supported by the wall. Similarly, the rider of a horse is mounted, but a person walking alongside the horse although holding its bridle is not mounted.

Both Embodiments of BA '949 merely connect the battery pack 19 to the suction module 5 by means of a flexible cord 9. The BA '949 battery 19 is not meant to move together with the suction module 5 and tool 1 when in use. Instead, the BA '949 battery pack 19 is mounted to the tool user's belt 18 or otherwise loose at the end of cord 9. BA '949 Para 0014 and Para 0023 lines 22-24.

By contrast, in the subject the battery pack 4 is mounted/mountable to the accessory unit 40 (or *vice versa*) since the battery and the accessory unit will move together substantially as a single unit. Applicant believes that the mounted arrangement of battery, accessory unit, and tool in the subject provides a more familiar and more friendly arrangement than that in BA '949 wherein the cord risks entanglement and/or limits the range of movement of the tool and user.

Both amended claim 1 and 15 require that the battery pack can be mounted to the accessory unit. [Claim 1 had that limitation originally and claim 15 has had the limitation added by the present amendment.] Thus, the Applicant respectfully submits that the present invention is not anticipated by BA '949 and the claims are allowable over that reference.

Appl. No. 10/804,417  
Amdt. dated September 16, 2005  
Responsive to Office Action dated March 16, 2005

**In the Drawings:**

Figures 1, 2 and 3B are amended herein to correct typographical errors noted during the preparation of this Amendment.

Respectfully submitted



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**Amendments to the Drawings:**

Please cancel/delete the original sheets which includes original Figures 1, 2 and 3B.

The attached three sheets replace the original three sheets including Figures 1, 2, and 3B.

In replacement Figures 1 and 2 the reference number for the rear handle has been corrected to 18 and relocated to avoid cut-off at the margin of the reproduced image.

In replacement Figures 1 and 2 the line from reference numeral 50 has been extended to contact the mode change knob.

In replacement Figure 3B the reference number for the rib has been corrected to 16 and relocated to avoid cut-off at the margin of the reproduced image.

Attachment: 3 Replacement Sheet of Drawings  
3 Annotated Sheet Showing Changes From The Original.



Serial No.: 10/804,417 Title:  
Cordless Hand Held Power Tool  
Inventor: Horst Grossman  
Docket No.: P-US-PR 1096  
Annotated Sheet

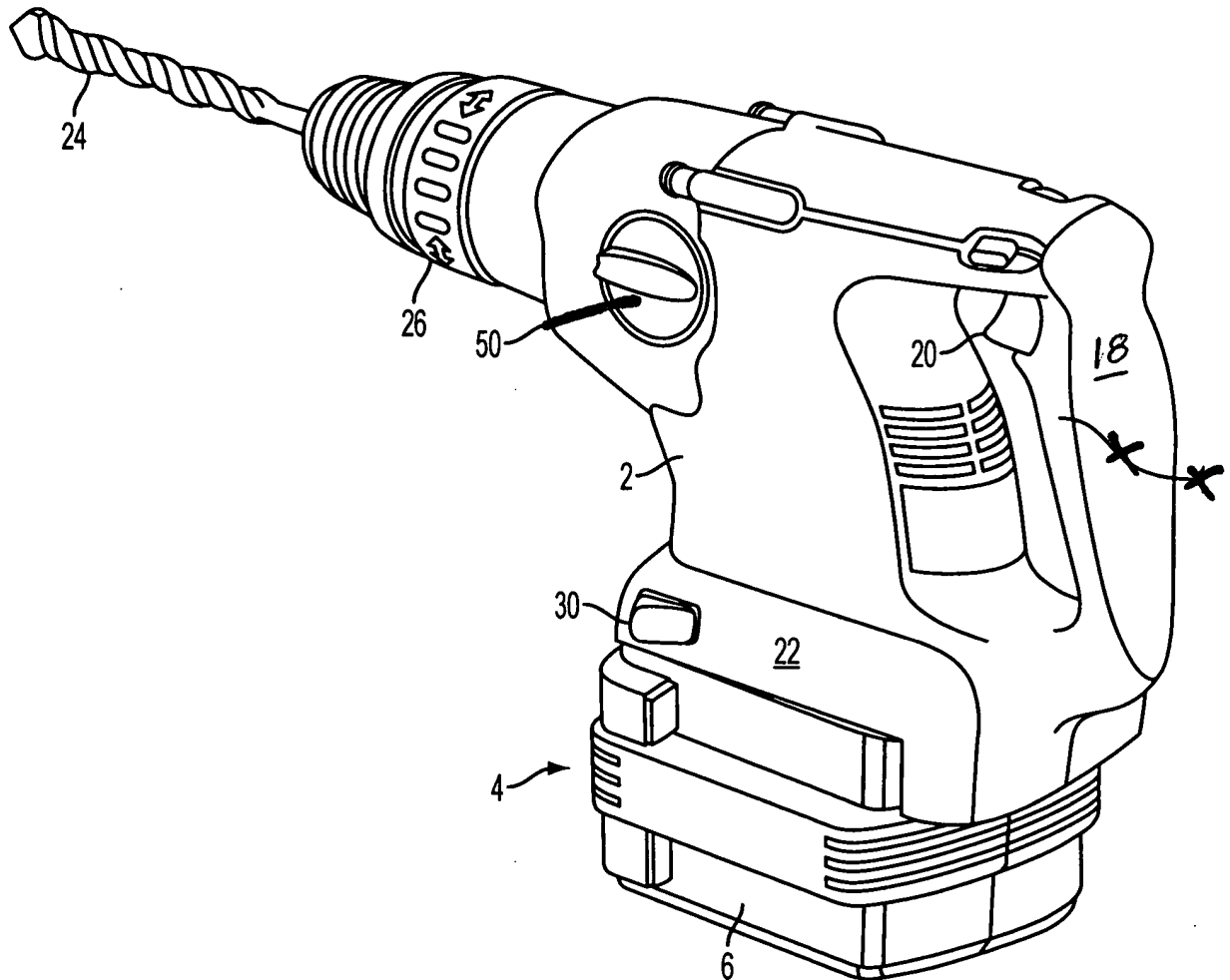


FIG. 1

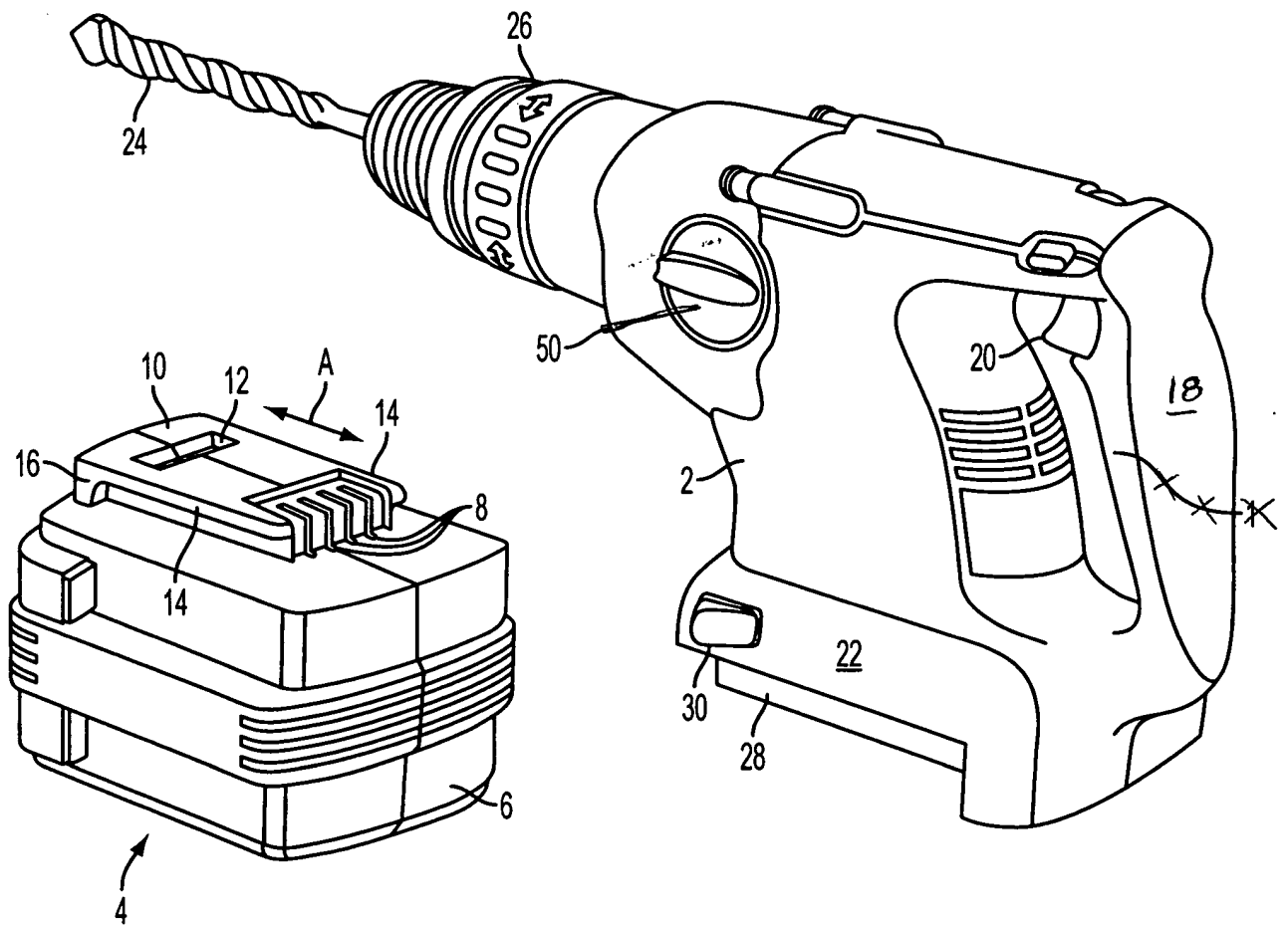


FIG. 2

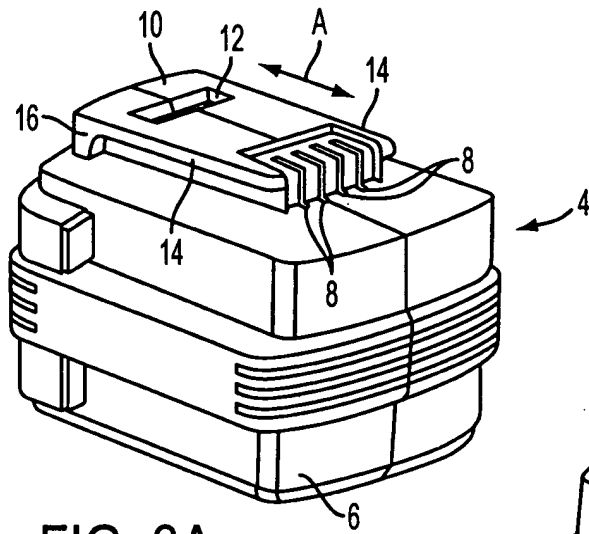


FIG. 3A

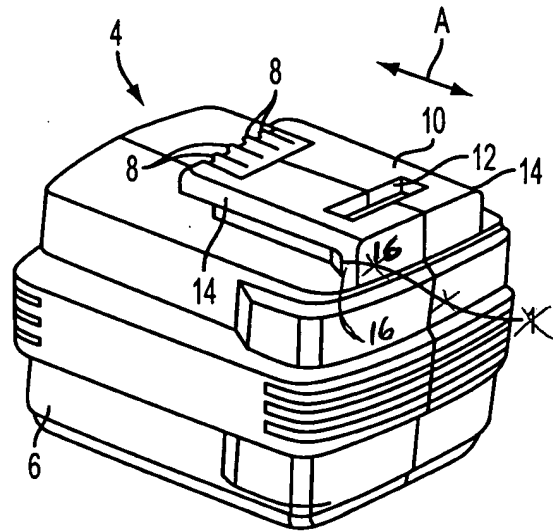


FIG. 3B